

the contrary, such use of CPNI is thoroughly pro-competitive and should be allowed any carrier.

In this connection, regardless of whether CPNI is used in a winback or retention context, some element of reason in light of universally-accepted business practice must also be considered. No business, regardless of the goods or services offered by it, should be precluded from simply contacting its former or soon-to-be-former customer in order to compete on the merits with another provider of the same good or service. Similarly, no business of which SBC is aware is precluded from using this simple fact that a customer has decided to take its business elsewhere as an opportunity to later contact that customer. To do otherwise would completely foreclose that business from speaking with that customer, a consequence that itself is anticompetitive. No special treatment is requested in this regard — we are all aware of flyers, brochures, mailers and other materials from, for example, virtually every IXC which loses a customer to another IXC. SBC asks only that the Commission allow carriers to continue to be permitted to enjoy the same opportunities afforded participants in any other line of business.

Second, carriers having CPNI of customers who have chosen another provider are frequently contacted by their former customer wishing information necessary for them to make an informed decision about remaining with their new carrier, or conversely, returning to their original carrier. Customers expect that answers to their questions are at the fingertips of their original carrier and that no impediments to discussing the service offerings once provided by the original carrier exists during such a contact. In SBC's judgment, customers will be confused and frequently annoyed when, in response to their

questions, a service representative asks CPNI-related questions about prior service information the customer expects that the representative can access and use freely.

Third, the CPNI Order significantly inhibits the original carrier's ability to provide a valuable service in identifying "slamming instances" and assisting customers victimized by such practices. Customers expect that, without any impediments whatsoever, their original carrier can access their CPNI in order to engage in the necessary fact-finding associated with an alleged slamming incident. Such fact-finding must encompass reviewing and using CPNI to, among other things, verify the telecommunications services originally subscribed to (in order to potentially reinstate them). In these regards, the anti-winback CPNI rule would hinder the original carrier in identifying the Commission's own number one complaint -- slamming.

Customers who have been "slammed" are already distrustful of the telecommunications industry because of the incident. In these circumstances, the constraint on their original carrier to use CPNI without conducting a CPNI-related inquiry (so as to protect the customer's confidentiality rights) stands in stark irony to the fact that a third party committed even greater CPNI rights violations (not to mention other violations) by slamming them with no notice whatsoever either for the CPNI or slamming violation. Exasperated customers who have a tendency to blame the original carrier will find no solace in the added inconvenience and frustration of being put to a CPNI-related inquiry.

For these additional reasons, the Commission should temporarily forbear from, or defer, Rule 64.2005(b)(3) in both the wireline and wireless contexts.

VI. THE COMMISSION SHOULD CLARIFY THAT THE CPNI ORDER AND RULES DO NOT APPLY TO "RETENTION" EFFORTS OR, IN THE ALTERNATIVE, SHOULD TEMPORARILY FORBEAR FROM APPLYING, OR DEFER, THEIR EFFECTIVE DATE TO THE EXTENT THAT THE COMMISSION APPLIES THEM TO RETENTION EFFORTS.

Many of the same considerations which support temporary forbearance in connection with the use of CPNI in carrier winback efforts applies to efforts to "retain" customers prior to the point at which they have terminated the service relationship with their original carrier. As CTIA points out, present Rule 64.2005(b)(3) permits customer retention efforts prior to the termination of the existing service relationship. However, the text of the Order creates an ambiguity by suggesting that the rule might also apply to "soon-to-be-former customers."²³ SBC agrees that, whether applied to wireline or wireless telecommunications carriers, the rule's application to pre-disconnect customers is even more anticompetitive than as applied to post-disconnected customers. As CTIA accurately observes:

Customers often leverage their ability to switch carriers by seeking progressively more attractive pricing, and carriers need to access CPNI in order to prepare competitive responses. Barring the use of CPNI in that situation would subvert that competitive process. There is, moreover, no privacy concern at issue when a customer still has a relationship with his or her existing carrier.²⁴

Furthermore, the ability to use CPNI to engage in retention efforts would equally benefit the fight against slamming. As noted in Part V., above, many customers who find

²³CTIA, at 43; CPNI Order, at ¶85.

²⁴CTIA, at 43.

out that they are no longer a customer tend to blame their original carrier for the change, particularly because it is the first carrier to whom that customer first turns to voice his or her confusion and anger. Were carriers formally permitted to use CPNI in order to engage in retention practices prior to the termination of the existing service relationship, instances of slamming would be diminished if, for no other reason, that the original carrier could bring the matter of a pending order with a second carrier to the customer's attention.

Some of SBC's BOCs are required to notify a CLEC competitor that a customer has placed a reconnect order with us within 24 hours of the time that the reconnect order has been taken. SBC's experience is that competitors routinely take that as a cue to use their own CPNI regarding that customer to attempt to retain him or her as a customer. There is no reason, given this practice by other carriers, that SBC's BOCs should be unable to compete on the same terms and under the same conditions.

For these reasons, the Commission should, at a minimum, clarify that its CPNI Order does not prevent the use of CPNI in order to engage in carrier retention efforts. To the extent that the Commission may be inclined to rule otherwise, SBC alternatively requests that it forbear from any application of, or defer, the CPNI Order and Rule 64.2005(b)(3), pending further consideration of the issue.

VII. THE COMMISSION SHOULD CLARIFY THAT THE NAME AND ADDRESS OF A CUSTOMER DOES NOT CONSTITUTE CPNI.

The CPNI Order intimated, but did not conclude, that a carrier's use of a customer's mere name and address may be limited.²⁵ SBC concurs with the view of CTIA that CPNI does not encompass the mere name and address of a customer (including billing address), and that the Commission should so clarify its CPNI Order in this regard.²⁶ However, CTIA's and SBC's views are no less applicable to the wireline context than the wireless context, so that the Commission's clarification should extend to both contexts.

First, this limited information does not at all relate to a "telecommunications service subscribed to by [a] customer," nor is it information "pertaining to telephone exchange service or telephone toll service" which may be contained in customer bills. Section 222(f)(1)(A), (B). Thus, it is not within the definition of CPNI in the first instance.

Second, to the extent that such information constitutes Subscriber List Information ("SLI"), such information is statutorily excluded from the definition of CPNI. Section 222(f)(1) expressly states that CPNI "does not include [SLI]."

Third, and more fundamentally, no privacy interests would be compromised by allowing a carrier to use the name and address of a customer in order to communicate

²⁵CPNI Order, ¶97.

²⁶CTIA, p. 41-42.

with that customer. For example, the CPNI Order specifically contrasted Billing Name and Address ("BNA") with CPNI, stating that "[u]nlike BNA, which only includes information necessary to the billing process, CPNI includes sensitive and personal information."²⁷

Finally, any suggestion by a federal (or other) agency that a business is precluded from using its customers' names and addresses in order to communicate with them would raise significant economic, social and Constitutional issues. These and other issues should be considered before such a broad-based prohibition might be put into place.

In the meantime, the Commission should clarify its CPNI Order to the extent requested herein. Alternatively, should the Commission conclude that it disagrees with CTIA's and SBC's points, it should temporarily forbear from, or defer, any such clarifying order or rule for a period of 180 days so that the telecommunications industry (and other interested industries) may be heard on the matter.

VIII. CONCLUSION

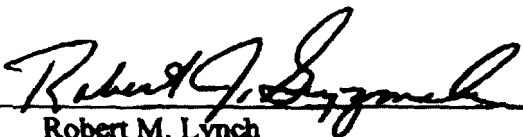
SBC submits that the several issues raised by its and GTE's and CTIA's pleadings, both individually and collectively, raise such serious public interest concerns that the Commission should temporarily forbear from, or defer, the effective date of several portions of the CPNI Order and implementing rules for all telecommunications carriers. SBC respectfully urges the Commission to issue an order immediately that

²⁷CPNI Order, ¶97. Moreover, close analysis of authorities relied on by the Commission, see, CPNI Order, n. 366, suggests that the Commission has not heretofore limited a carrier's own use of the name and address (including billing address) of its customers.

grants each of these movants the relief requested by them in all respects, for a period of 180 days, and that such an order apply to all providers, whether wireless or wireline, of the services and products which are the subjects of these various pleadings.

Respectfully submitted,

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May 8, 1998

SWBT METHODS - RES/BUS
M190.04-1008 - TX

CALL WAITING ID & CALL WAITING ID OPTIONS

These services compliment our existing Caller ID and Call Waiting services.

CALL WAITING ID

Call Waiting ID allows customers to see the name and number of an incoming call (displayed on their CPE) while they are talking on an existing telephone call.

Customers can choose which calls they want to take and which they don't by:

- Terminating the first call and answering the second (as with existing Call Waiting service)
- Answering the second call and toggling between callers (as with existing Call Waiting service)
- Letting the second call forward to voice messaging (customer must subscribe to voice messaging service and the appropriate Call Forwarding Busy/Don't Answer service).

In addition to Call Waiting ID, the customer **MUST** also subscribe to Call Waiting and Caller ID Name *and* Number.

Type 2, Type 2.5 or Type 3 CPE is required with Call Waiting ID.

CALL WAITING ID & CALL WAITING ID OPTIONS

CALL
WAITING ID
OPTIONS

Call Waiting ID Options includes the same features as Call Waiting ID with some additional options for handling the second call.

Through the use of Disposition or 'soft' keys on the CPE, Call Waiting ID Options enables the customer to:

DISPOSITION KEY	FUNCTION
AnsrCall	<ul style="list-style-type: none">• Allows the customer to answer the new call and put the current call on hold.• The customer can toggle between the 1st and the 2nd call.
AsktoHold	<ul style="list-style-type: none">• Sends a message from the customer to the new call asking, "Please Hold, the person you are trying to reach is currently on another call and will be with you shortly."• This message is pre-recorded from the switch and can not be recorded by the customer.
Drop&Ansr	<ul style="list-style-type: none">• Allows the customer to drop the current call and answer the new caller.
CallNotes	<ul style="list-style-type: none">• Allows the customer to automatically forward the incoming call to CallNotes without the caller having to wait the 3 or 4 ring patterns before being forwarded to voice mail.• Customer must subscribe to voice messaging service and Call Forwarding Busy/Don't Answer or Call Forwarding Don't Answer service.• This key is only operational if the customer subscribes to Call Notes service, however, the key appears on the set regardless of whether the customer subscribes to the service.
ConnctAll	<ul style="list-style-type: none">• Allows the customer to connect the new caller to the current call in progress.• The customer does not have to subscribe to Three Way Service for this option.
TellBusy	<ul style="list-style-type: none">• Sends the new caller a message that says, "The caller you are trying to reach is currently unavailable or not accepting calls, please hand-up and call back later."• This message is pre-recorded on the switch and cannot be recorded by the customer.

The customer can also take no action and the call will forward to a voice mailbox (customer must subscribe to voice messaging service and Call Forwarding Busy/Don't Answer or Call Forwarding Don't Answer service).

CALL WAITING ID & CALL WAITING ID OPTIONS

CALL
WAITING ID
OPTIONS
(Contd)
apply

If the new caller is outside of the local calling scope, they will NOT be billed toll charges when the "TellBusy" message is sent.

However, when the "AsktoHold" message is sent, toll charges DO to the new caller and are initiated when the "AsktoHold" button is depressed.

In addition to Call Waiting ID Options, the customer MUST subscribe to Call Waiting, Caller ID Name *and* Number and Call Waiting ID.

Type 2.5 or Type 3 CPE is required with Call Waiting ID Options.

NOTE: The Call Waiting 'beep' that customers are accustomed to hearing will sound differently on both Call Waiting ID and Call Waiting ID Options.

CPE

The customer can purchase their CPE (Type 2 and above for Call Waiting ID or Type 2.5/3 for Call Waiting ID Options) from SWBT or from another source. SWBT offers several Type 2 and Type 2.5 CPE in the form of telephones or adjuncts and also offers one Type 3 piece of equipment.

CERTIFICATE OF SERVICE

I, Katie Turner, hereby certify that the foregoing, "COMMENTS OF SBC COMMUNICATIONS INC. IN SUPPORT OF THE PETITION FOR TEMPORARY FORBEARANCE OR STAY OF GTE SERVICE CORPORATION, AND THE REQUEST FOR DEFERRAL AND CLARIFICATION OF CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION; AND PETITION FOR TEMPORARY FORBEARANCE OR DEFERRAL OF SBC COMMUNICATIONS INC.," in CC Docket Nos. 96-115 have been filed this 8TH day of May, 1998 to the Parties of Record.



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May 8, 1998

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